



City of Carmel

Carmel Board of Zoning Appeals Regular Meeting Monday, June 26, 2006

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 6:00 PM on Monday, June 26, 2006, in the Council Chambers of City Hall, Carmel, Indiana. The meeting opened with the Pledge of Allegiance.

Members in attendance were Kent Broach, James Hawkins, and Madeleine Torres, thereby establishing a quorum. Angie Conn and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mrs. Torres moved to approve the minutes of the May 22, 2006 meeting as submitted. The motion was seconded by Mr. Broach and **APPROVED 3-0.**

Mr. Molitor gave the Department Report. He stated they had been attempting to schedule an Executive Session of the Board to discuss pending litigation. They are hopeful to hold the Executive Session Thursday, June 29, 2006 at 8:00 PM. He pointed out that since only three members of the Board were present at this meeting, it would require a unanimous vote to make any decisions. A 2-1 vote would result in a no decision and automatically continue the matter to the next meeting of the Board.

H. Public Hearing:

1-3h. Cingular Wireless Communications Tower

The applicant seeks the following special exception and development standards variance approvals:

Docket No. 06040014 SE	ZO Chapter 20H.02	Special Exception Uses
Docket No. 06040015 V	ZO Chapter 25.13.1.B.i	Distance from Residential Property
Docket No. 06050009 V	ZO Chapter 25.13.01.3	Tower landscape requirements

The site is located at Brookshire Golf Course, northwest of 116th St. and Gray Rd.

The property is zoned P-1/Parks & Recreation.

Filed by Jim Buddenbaum of Parr Richey Obremskey & Morton for Cingular.

Present for the Petitioner: Jim Buddenbaum, offices at 201 N. Illinois Street, Indianapolis. Pursuant to Section 6 Article 7 of the Board's Rules, he requested an automatic continuance, based upon the rule that only three members present allow the Petitioner to have a one-time continuance. Secondary to that request, is that pursuant to the Ordinance Section 21.06 for a Special Use petition for the cellular antenna to be located at this site, "the BZA may not exercise Special Use or Special Exception approval in any of the floodplain districts until the Board has received written approval from the Indiana Natural Resources Commission." Despite having a 145-page environmental assessment prepared, they do not have a floodplain approval letter from DNR at this time.

Mr. Hawkins asked if the Board needed to vote on the continuance.

Mr. Molitor stated since the Petitioner had formally requested the continuance, under the Rules the Board is obligated to accept the request. The Board could make a motion to continue the Hearing until the July 24 meeting. He assumed the Petitioner would be prepared to proceed at that time.

Mr. Buddenbaum stated it was out of their control, but he was hopeful. He asked that the continuance be without Public Notice since they have already provided notice.

Unfavorable response from the audience.

Mr. Buddenbaum stated that they had sent notice to over 150 surrounding properties and provided a sign out in front of the main entrance to the property, as well as Public Notice, costing \$995.00. They would prefer not to do that again. He felt the Rules provided for no notice being necessary.

Mr. Molitor stated that the Rules do not require a re-notice for matters continued under this Rule, if the announcement is made at this meeting as to when the Hearing will be held. If they are not prepared to make their presentation next month and there is an additional continuance required, then the Board could require them to re-notice.

Mr. Hawkins asked if there was any expense with the sign.

Mr. Buddenbaum stated they would need to have the sign made again.

Mr. Molitor stated that under the Rules no additional notice is required.

Mrs. Torres asked if the Board was permitted to require them to make notice.

Mr. Molitor stated that not unless something was different, such as asking for another date instead of next month's meeting. If the announcement is made at this meeting as to when the Hearing would be held, that is deemed to be notice to all those who are interested.

Mrs. Torres moved to continue **Docket Nos. 06040014 SE, 06040015 V, and 06050009 V, Cingular Wireless Communications Tower** to next month's meeting on July 24, 2006. The motion was seconded by Mr. Broach and **APPROVED 3-0.**

Various members of the audience wanted to be heard regarding the notice of the Hearing and the sign.

Mr. Hawkins stated there was nothing to be heard at this time because that portion of the Hearing had not been opened.

4h. Cherry Creek Estates, Sec 1A, lot 4 - sales trailer

The applicant seeks the following use variance amendment approval:

Docket No. 06050010 UV Amend ZO Chapter 5.01 & 25.16 Permitted Uses

The site is located at 5882 Cherry Creek Blvd and is zoned S-1/Residence.

Filed by Ann Walker of Pulte Homes of Indiana, LLC.

Present for the Petitioner: David M. Compton, Vice President of Land Acquisitions for Pulte Homes of Indiana. The purpose of the request is to seek approval for an amendment to the Use Variance for a 2-year extension of time for the use of an existing sales trailer that is integral in the marketing of Cherry Creek Estates. Cherry Creek Estates is located about a quarter mile south of 146th Street and on the east side of Hazel Dell Parkway. The trailer is in Section 1A, Lot #4. In June 2004 Pulte Homes was granted a Use Variance for the sales trailer for a period of two years. They feel a sales trailer is more professional to utilize a professional presentation for marketing homes that are averaging \$500,000. The sales trailer is not visible from Hazel Dell Parkway and backs up to a heavily wooded tree line between it and the neighboring community. There is landscaping on all sides, as well as a hard-surface parking area in front. Over the last 90 days the national home sales market has slowed significantly. The Cherry Creek community consists of approximately 350 home sites, of which approximately 60 percent have sold over the last two years. Pulte's intent is to sell the remaining 40 percent of the home sites over the next two year period. They have addressed all comments from the Technical Advisory Committee.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. As stated, they are requesting a time extension to have the sales trailer be on site of the actual subdivision for selling houses. The Department recommended positive consideration of the docket.

Mr. Broach wanted clarification of the time period.

Mrs. Conn stated that the original two-year period ends June 28, 2006 and they are requesting a two-year time extension to expire in June 2008.

Mr. Hawkins moved to approve **Docket No. 06050010 UV Amend, Cherry Creek Estates, Sec 1A, lot 4 – sales trailer.** The motion was seconded by Mrs. Torres and **APPROVED 3-0.**

5-6h. TABLED:

Lubavitch of Indiana Worship Center

~~The applicant seeks approval for the following special use & development standards variance approvals:~~

~~**Docket No. 06050007 SU — ZO Chapter 5.02 — Special Uses**~~

~~**Docket No. 06050008 V — ZO Chapter 5.04.03.E.2 — Minimum Lot Width**~~

~~The site is located at 2640 W 96th Street and is zoned S-1/Residence.~~

~~Filed by Dave Coots of Coots, Henke & Wheeler, P.C.~~

7-10d. Parkwood Crossing, Indiana Insurance (Liberty Mutual Group)

The applicant seeks the following development standards variance approvals for a parking garage:

Docket No. 06050011 V Chapter 25.01.02.B.1 accessory bldg height

Docket No. 06050012 V Chapter 25.01.02.B.3.a.i.a accessory bldg front yard setback

Docket No. 06050013 V Chapter 25.01.02.B.3.b.i.a accessory bldg side yard setback

Docket No. 06050014 V Chapter 25.01.02.B.7.b accessory bldg lot coverage in side yard

The site is located at 350 E 96th St. and is zoned B-6/Business within the US Hwy 31 Corridor Overlay. Filed by Paul Reis of Bose McKinney & Evans for Duke Construction LP.

Present for the Petitioner: Paul Reis, Bose, McKinney & Evans, 600 E. 96th Street, Suite 500. His ballot sheets were on the way. He could wait and present after the next Petitioner.

Mrs. Conn stated that the ballot sheets were included in the Board's packets.

Mr. Reis represented Liberty Mutual Group, particularly the Indiana Insurance Company in connection with a new parking garage. The applicant, Duke Construction, entered into the partnership and will be the contractor to construct the parking structure. Also present were Joanne Bragg, Liberty Mutual Insurance Company and Blaine Paul, Duke Construction. This parking garage will exceed the height allowed for an accessory building and will be in front of the front line of the Indiana Insurance office building. The side setback will be approximately 4.84 feet from the west property line, instead of the required 5 feet. This parking structure will be replacing surface parking and will be exceeding the 30 percent maximum coverage in the side yard. An aerial photo of the Parkwood Development was shown, indicating the current Indiana Insurance building and the proposed parking structure. There is a similar parking structure located between Parkwood Buildings #4 and #5. The elevations of the buildings were shown. The height of the building will be 37 feet. This is consistent with the prior garage. The prior garage was constructed before the 25-foot requirement was in place for accessory structures. However, there was a commitment made in connection with the Parkwood Development that they would not exceed 25 feet. When Duke built the existing structure, they sought an amendment commitment with the Plan Commission to allow for this additional height. From the north side of the property to the south side there is about a 10-foot change in the grade. The lower level on the south side will actually look taller. The north side along I-465 will not appear to be as high. A computer rendition was shared showing how the building will fit in as far as height and appearance. The existing buildings within the park were pointed out. This is a critical parking structure. Liberty Mutual has added a significant number of employees with high-paying jobs in this building. Currently employees are parking in the surface parking lot and in the adjacent property area that generally feeds the Parkwood Development. When Parkwood was initially conceptualized, three parking structures were within the development. This will be the second one and will be critically useful. An elevation showing the front line of the building was shown. The building almost has two front elevations, although one is a private road and the other goes out to 96th Street. The parking structure is very slightly north of the front line and oriented to I-465. In order to deliver the number of spaces that are needed to provide appropriate parking for the structure this was the footprint and location that the structure needed to take on this approximately 7.8 acre parcel. There is a 5-foot side yard setback and in one particular area the setback is less than 5 feet. The garage will be approximately 4.84 feet from the side/west property line. He showed the current site plan showing no lot coverage. A site plan was shown which represented the lot coverage after the garage is completed. There will be surface parking and additional landscaping which has been approved by the Urban Forester. The landscaping will be added to the existing trees. He did not feel the garage would have any adverse or injurious affects to the adjacent property owners or to the community.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The parking garage has been designed to be integrated into the Parkwood Development and the Department recommended positive consideration of all four dockets.

Mrs. Torres asked about the original three parking structures.

Mr. Reis stated they were shown in the initial conceptual plan. They were contemplating having up to three garages rather than more surface parking. As the project developed there was the existing parking garage and this garage that is being proposed. He was not aware of plans for any other structures.

Mrs. Torres asked the height of the insurance building.

Mr. Reis stated the building was 60 feet.

Mr. Broach asked about the proximity to I-465 and the uniformity. He asked how much closer the garage was than the building to I-465.

Mr. Reis stated he could not tell from the drawings. In some it looked significant and in others it does not look like it is material.

Mr. Broach stated that ideally it would be better if it were flush with the insurance building.

Mr. Reis indicated the site plan under Tab #4, but he did not have actual measurements. It was less than 5 feet. Parkwood Building #5 is closer to the ring road than the parking garage or the insurance company.

Mr. Hawkins asked if there would be a breezeway or just a sidewalk path to the insurance building or any other buildings.

Mr. Reis stated it would be a sidewalk to the insurance building. Indiana Insurance owns their parcel, so it is different from the other parking facilities that are owned by Duke Realty and service all the tenants.

Mr. Hawkins asked how many spaces they were replacing.

Mr. Reis thought the finished number was 551 spaces. They were adding about 425.

Mrs. Torres moved to approve **Docket Nos. 06050011V, 06050012V, 06050013V, and 06050014V, Parkwood Crossing, Indiana Insurance (Liberty Mutual Group)**. The motion was seconded by Mr. Hawkins and **APPROVED 3-0**.

11d. Shops on Medical Drive

The applicant seeks the following development standards variance approval:

Docket No. 06050016 V Chapter 19.06 landscape bufferyard requirement

The site is located at 126 Medical Drive. and is zoned B-8/Business.

Filed by Mukesh Patel.

Present for the Petitioner: Jim Wheeler, Coots, Henke & Wheeler, 255 E. Carmel Drive, Carmel. Also present were Mukesh Patel, owner and operator of Premier Cleaners on Carmel Drive, and Adam DeHart, Keeler-Webb Associates. They seek to vary the landscape bufferyard setback from 30 feet to 15 feet.

Adam DeHart, Project Manager with Keeler-Webb Associates, 486 Gradle Drive, Carmel. The 2005 aerial photograph was shown of the parcel. Two significant things are the two existing curb cuts and an existing parking lot. Also represented was the childcare facility that burned down in 1998. The site is irregular in shape. The north end is truncated at a different angle on the east property line than from the west line. The east property is the Goddard School, the northeast corner is the Carmel Racquet Club, and the Carmel Care Facility is to the west. All the properties are zoned business. Carmel Care has a slightly different zoning of B-2. The others are B-8. The apartment complex is the adjoiner to the south across Medical Drive. The proposed site plan was shown. There are a few things that cause difficulties in designing this project. The site is 1.3 acres and the irregular shape causes problems in the development. Typically for small commercial and industrial sites rectangular buildings and parking lots are the most efficient use of space. This parcel has 12 feet of elevation change from back to front which will require retaining walls along part of the west property line and the entire north parking lot. In the past, a storm sewer was installed through the parcel from the east/northeast corner connecting to the trunk line along the west side of the property. That storm sewer services other properties and is not in an existing easement. They will have to take it into account and work around it in the development design phase. Mr. Patel has approached the Goddard School to see if they could share an entrance in an effort to reduce the curb cuts from two to one. There is no formal documentation in place at this time. They have planned to install an additional curb cut to the west of the location they have shown. The purpose for this particular site plan, from what they had originally submitted, was to provide a landscaping plan which shows the required number of shade trees, ornamental trees and shrubs per the Zoning Ordinance. They wanted to show that they could get the required number of plantings in all of the bufferyards shown. Mr. Brewer, the Urban Forester, had some comments in regard to this plan. His second set of comments was primarily focused on meeting the standards of the Ordinance. That was not the intention of this drawing, but they do intend to install the required number of plantings in the reduced bufferyard. They plan to install a masonry and wrought iron-look fence along the front of the landscaping in an effort to mitigate the view of the parking lot from the street level. The building and parking lot will be at a grade higher than the street. An architectural rendition of the proposed building and fence was shown. It did not show the exact number of plants.

Mr. Wheeler pointed out the proposed Findings of Fact in the packets. They believe the project will reduce the green belt, but will not have any negative affect on the surrounding area. The response from those in the area has been good. They would like to see the parcel developed.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The Petitioner is trying to get the variance approval to build this site before going to the Plan Commission. If the variance is denied, they would not have to go through the Plan Commission. The Urban Forester has reviewed the conceptual landscape plan and has quite a few issues. One of the major issues is the front yard plantings are above a utility/storm sewer line and that area is usually separated from the planting area. Also, the Urban Forester has not seen

details on the proposed retaining wall. It is possible there may be too much building on this site. However, the Department recommended positive consideration after all questions and concerns are addressed about the overall site.

Mr. Broach noticed in the Department Report that the bufferyard would be reduced, but the required number of plantings would still be planted on the site. He wanted to know if that was a commitment on the part of the Petitioner or had it not been finalized.

Mr. DeHart stated it was the intent to get the required number of plantings in the reduced area.

Mr. Broach stated that the Board's approval would simply reduce the bufferyard from 30 to 15 and they would not be approving any site plan or number of plantings.

Mrs. Conn stated that was correct and the Petitioner would need to go through the Plan Commission. They are committing to the number of plantings in the reduced bufferyard.

Mr. Broach pointed out that the Department Report stated that the largest four trees on the block are located on this parcel and they have not been worked into the proposed site design. He wanted to know if that was because of their location.

Mr. DeHart pointed out that under tab #2 in the packet the four trees are in the center of the site. He did not know how they could design anything around them.

Mr. Broach thought the real reason for the reduced bufferyard was for the required parking spaces.

Mr. DeHart stated in their concept they were planning to install a retail facility. A lot of the users require a drive up to the door to drop off type of building. They need a service side for deliveries separated from the public side. They would need double row parking, a sidewalk out front, building width of 60 to 80 feet and a service road in the back. Looking at that and the proposed service road in the back, they arrived at their proposed site plan.

Mr. Broach stated they usually grant variances because of the irregular nature of the parcel and a situation like this. Otherwise the parcel could not be developed and it is a hardship on the Petitioner. As a general rule, if bufferyards are reduced, they do require the same amount of plantings as required under the Ordinance.

Mrs. Torres noted from the Staff Report that the reduction in the green belt was consistent with the development in the area. She wanted to know if they were reviewing the Ordinance for this area. Along Range Line the City is pulling the buildings up to the road, but this is outside the Overlay.

Mrs. Conn stated that this parcel is two parcels east of the Carmel Drive/Range Line Road Overlay boundary. The other developments on the street are older developments and there have been Ordinance Amendments since they were built.

Mrs. Torres understood the hardship of the site. Would there be delivery trucks that would need to turn around behind the building?

Mr. DeHart stated that they expected the delivery trucks to be single axle box trucks or vans.

Mrs. Torres was okay with approving the reduction from 30 to 15 feet and maintaining the amount of landscaping. But she was not okay with the landscape plan if the Urban Forester had outstanding questions and the design of the fence incorporated into the buffer. The Plan Commission will address the ADLS application.

Mr. Hawkins concurred with the other two members. He felt they may be trying to squeeze too much onto the site. However, this Board is only deciding the bufferyard.

Mr. Hawkins moved to approve **Docket No. 06050016 V, Shops on Medical Drive**. The motion was seconded by Mrs. Torres and **APPROVED 3-0**.

12d. TABLED UNTIL JULY 24:

Stonegate Apartments off-premise sign

~~The applicant seeks approval for the following development standards variance:~~

~~**Docket No. 06020018 V — ZO Chapter 25.07.01-04 — off-premise sign in road right of way**~~

~~The site is located just north of Meadow Lane & Main Street and is zoned R-4/Residence.~~

~~Filed by Larry Kemper of Nelson & Frankenberger.~~

I. Old Business

There was no Old Business.

J. New Business

There was no New Business.

K. Adjournment

Mrs. Torres moved to adjourn. The motion was seconded by Mr. Hawkins and **APPROVED 3-0**. The meeting adjourned at 6:55 PM.

James R. Hawkins, President

Connie Tingley, Secretary